

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

WEST BEND MUTUAL)	
INSURANCE COMPANY,)	
)	
Plaintiff,)	Case No. 1:21-cv-01009-TWP-MG
)	
v.)	
)	
BEECH GROVE FIREARMS)	
PROPERTIES, LLC, and the INDIANA)	
DEPARTMENT OF ENVIRONMENTAL)	
MANAGEMENT ("IDEM"),)	
)	
Defendants.)	

**JOINT MOTION TO STAY PLAINTIFF'S CLAIM
AGAINST BEECH GROVE FIREARMS PROPERTIES, LLC**

Plaintiff West Bend Mutual Insurance Company ("West Bend") and Defendant Beech Grove Firearms Properties, LLC ("Beech Grove") for their Joint Motion to Stay, state:

1. On April 23, 2021, West Bend filed its Complaint for Declaratory Judgment against Beech Grove, and the Indiana Department of Environmental Management ("IDEM").
2. Plaintiff's Claim against Beech Grove is a claim for Declaratory Judgment regarding whether its policy provides coverage for Beech Grove Firearm's environmental liabilities.
3. The Court previously granted the parties' request for a ninety (90) day stay on July 19, 2021, to allow for Beech Grove to complete environmental sampling required by IDEM. As stated in the parties' motion, the cost of that testing is relatively minor.
4. In the time since the stay has been granted, Beech Grove's environmental consultant has conducted the required environmental sampling and completed its report regarding this sampling. The consultant reported its results to IDEM on September 2, 2021. Beech Grove is

currently waiting for a response from IDEM to its environmental sampling to learn whether IDEM will require additional work to be performed by Beech Grove, or other potentially responsible parties.

5. The parties request a stay of sixty (60) days to determine whether IDEM will request that Beech Grove perform any additional work. Once Beech Grove receives IDEM's response, the parties will have a better understanding of whether they can resolve the case informally without the use of any additional judicial resources.

6. The parties' requested sixty day stay includes any pending deadlines, including the deadline to file a Case Management Plan of October 15, 2021, and Beech Grove's deadline to file its response to Plaintiff's Complaint. The parties' request that the Court set Beech Grove's deadline to file its response to Plaintiff's Complaint seven (7) days after the stay is lifted to December 21, 2021.

7. The Court has an inherent power to stay its proceedings. *Jones v. City of Indianapolis*, 216 F.R.D. 440, 450 (S.D. Ind. 2003). It has the discretion to impose a stay when the "interests of justice" so require. *Id.*

8. A stay in this case will allow the parties to resolve the dispute without incurring additional costs, filing additional motions, and unnecessarily consuming the Court's judicial resources. The stay is therefore in the interests of justice.

WHEREFORE, Plaintiff West Bend Mutual Insurance Company and Defendant Beech Grove Firearms Properties, LLC respectfully request that this Court:

- (a) Stay West Bend's claim against Beech Grove for sixty (60) days;
- (b) Extend the deadline for the parties' to file a Case Management Plan to December 14, 2021;

(c) Extend Defendant's deadline to file a response to Plaintiff's Complaint to December 21, 2021; and

(d) For any other relief the Court deems proper.

Respectfully submitted,

/s/ Kyle D. Steinbrueck (with permission)

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CERTIFICATE OF SERVICE

The foregoing was filed electronically on October 15, 2021. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the court's system.

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/s/ Stephen C. Wheeler